

EXHIBIT O



1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3  
4

5 LARGO CONCRETE, INC. A CALIFORNIA )  
6 CORPORATION; N.M.N. CONSTRUCTION, )  
7 INC., A CALIFORNIA CORPORATION, )

8 PLAINTIFFS, )

9 V. )

10 LIBERTY MUTUAL FIRE INSURANCE )  
11 COMPANY, A MASSACHUSETTS )  
12 CORPORATION, AND DOES 1 THROUGH )  
13 100, INCLUSIVE, )

14 DEFENDANTS. )  
15 )

) CASE NO.

) C07-04651 CRB (ADR)  
16 )

17 DEPOSITION OF MELODEE YEE, TAKEN

18 ON BEHALF OF THE PLAINTIFF, AT

19 5820 CANOGA AVENUE, SUITE 250,

20 WOODLAND HILLS, CALIFORNIA, COMMENCING

21 AT 3:03 P.M., FRIDAY, OCTOBER 16, 2007,

22 BEFORE MAGDALENE S. PUENTE, CSR 8498.  
23  
24  
25

1 APPEARANCES OF COUNSEL:

2  
3 FOR THE PLAINTIFFS:

4 ROXBOROUGH, POMERANCE & NYE, LLP  
5 BY: **NICHOLAS P. ROXBOROUGH, ESQ.**  
6 5820 CANOGA AVENUE  
7 SUITE 250  
8 WOODLAND HILLS, CALIFORNIA 91367  
9 818.992.9999

10 FOR THE DEFENDANTS:

11 GRACE, COSGROVE & SCHIRM  
12 A PROFESSIONAL CORPORATION  
13 BY: **LISA KRALIK-HANSEN, ESQ.**  
14 444 SOUTH FLOWER STREET  
15 SUITE 1100  
16 LOS ANGELES, CALIFORNIA 90071  
17 213.533.5400

18 SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP  
19 BY: **SCOTT R. SVESLOSKY, ESQ.**  
20 333 SOUTH HOPE STREET  
21 48TH FLOOR  
22 LOS ANGELES, CALIFORNIA 90071-1448  
23 213.620.1780

24 ALSO PRESENT:

25 **MICHAEL L. PHILLIPS, ESQ.**

1 MR. ROXBOROUGH: NO, BECAUSE I'M GOING TO ASK 03:33:42  
2 QUESTIONS AND LAY THE FOUNDATION BEFORE YOU -- 03:33:44  
3 MR. SVESLOSKY: WE'LL TAKE A BREAK AND THEN -- 03:33:45  
4 MR. ROXBOROUGH: YOU'RE NOT REPRESENTING HER. 03:33:47  
5 YOU'RE REPRESENTING LIBERTY. 03:33:49  
6 MR. SVESLOSKY: AND I WANT TO TAKE A 03:33:51  
7 FIVE-MINUTE BREAK. 03:33:51  
8 YOU CAN'T EXTEND ME THAT COURTESY? 03:33:54  
9 MR. ROXBOROUGH: WE'VE BEEN HERE ONLY FOR 03:33:54  
10 ABOUT 25 MINUTES. 03:33:54  
11 MR. SVESLOSKY: ACTUALLY, WE STARTED AT 3:36. 03:33:56  
12 IT'S MORE THAN 20. 03:33:57  
13 MR. ROXBOROUGH: I'M NOT GOING TO ARGUE WITH 03:33:59  
14 YOU. 03:34:01  
15 MR. SVESLOSKY: NOR AM I. 03:34:01  
16 DO YOU GUYS WANT TO TAKE A FIVE-MINUTE BREAK? 03:34:03  
17 THE DEPONENT: SURE. 03:34:07  
18 MR. ROXBOROUGH: WE'LL SHOW THAT TO THE JUDGE 03:34:07  
19 ALSO. 03:34:10  
20 (A RECESS WAS HELD 03:34:10  
21 FROM 3:34 TO 3:40.) 03:34:10  
22 MR. ROXBOROUGH: BACK ON THE RECORD. 03:34:10  
23 MS. HANSEN: I WITHDRAW MY LAST OBJECTION. 03:40:09  
24 MR. ROXBOROUGH: I APPRECIATE IT. 03:40:10  
25 /// 03:40:12

1 BY MR. ROXBOROUGH:

03:40:12

2 Q. DO YOU HAVE THE QUESTION IN MIND?

03:40:14

3 A. NO. CAN WE HAVE IT READ BACK, PLEASE.

03:40:15

4 (WHEREUPON, THE FOLLOWING QUESTION

5 WAS READ:

6 Q. SO FAR HE SENT IT TO YOU ONCE;

7 YOU HAVE ANOTHER CONVERSATION; YOU RETURN

8 IT.

9 ARE YOU RETURNING TO HIM IN

10 FINAL WHEN YOU SIGNED IT OR HAVE YOU

11 GONE THROUGH AND MADE DRAFTS BEFORE

12 YOU RETURNED IT AND SIGNED IT?)

03:40:38

13 THE DEPONENT: OKAY. THERE WERE DRAFTS BEFORE

03:40:38

14 I RETURNED IT.

03:40:42

15 BY MR. ROXBOROUGH:

03:40:44

16 Q. WHO MADE THOSE DRAFTS?

03:40:44

17 WHAT WAS THE PROCESS?

03:40:46

18 A. I RECEIVED A DRAFT, I REVIEWED IT, I CONSULTED

03:40:50

19 WITH MY COUNSEL, MS. HANSEN, AND THEN I MADE

03:40:57

20 HANDWRITTEN CHANGES. I CONTACTED MR. SVESLOSKY, AND I

03:41:03

21 BELIEVE HE DIRECTED ME TO CONTACT HIS SECRETARY SO THE

03:41:14

22 CHANGES COULD BE MADE.

03:41:18

23 Q. AND HOW DID YOU GO ABOUT CONTACTING THE

03:41:19

24 SECRETARY?

03:41:22

25 A. I'M NOT SURE IF I CALLED HER OR IF SHE CALLED

03:41:23

1 ME. 03:41:25

2 Q. FOR THE PURPOSES OF MAKING THE CHANGES? 03:41:26

3 A. YES. 03:41:29

4 Q. HOW MANY PAGES WAS -- STRIKE THAT. 03:41:33

5 THE DECLARATION EXCLUDING THE CAPTION PAGE 03:41:38

6 CONSISTS OF FIVE NUMBERED PARAGRAPHS. 03:41:41

7 HOW MANY NUMBERED PARAGRAPHS WERE ON THE 03:41:43

8 DRAFT? 03:41:45

9 A. I BELIEVE THERE ARE FIVE. 03:41:45

10 Q. AND WHAT WERE THE CHANGES YOU MADE? 03:41:47

11 A. I JUST CHANGED A COUPLE OF WORDS IN -- I THINK 03:41:50

12 THE FIRST -- SECOND PARAGRAPH I BELIEVE THEY HAD THE 03:42:03

13 INITIALS REFERENCED TO MY CURRENT FIRM INCORRECT. I 03:42:07

14 MAY HAVE CHANGED A WORD OR TWO AT LINE 11 OR 12. I 03:42:24

15 THINK I ADDED A COUPLE OF WORDS. 03:42:40

16 Q. WHAT LINE, PLEASE? 03:42:43

17 A. LINES 13 AND 14. 03:42:44

18 Q. WHAT DID YOU CHANGE? 03:42:47

19 A. "RELATING TO MY LEGAL PRACTICE" JUST TO MAKE 03:42:48

20 SURE IT WAS DURING THE TIME THAT I WAS EMPLOYED AT KERN 03:42:51

21 AND WOOLEY. 03:42:58

22 AROUND LINES 18 THROUGH 20 I BELIEVE I ADDED 03:42:58

23 "FOR A PERIOD OF TIME" BECAUSE I WASN'T SURE EXACTLY 03:43:16

24 WHEN MR. PYNES WAS EMPLOYED THAT WE WERE BOTH 03:43:21

25 ASSOCIATES AT KERN AND WOOLEY. 03:43:25



1 Q. I'M SORRY. WHAT LINE? 03:43:27

2 OH. LINE 18? 03:43:29

3 A. UH-HUH. 03:43:30

4 Q. "YES"? 03:43:31

5 A. YES. AND THAT WE WERE BOTH -- I JUST -- 03:43:33

6 I DON'T KNOW WHAT THE ORIGINAL DRAFT SAID, BUT 03:43:36

7 I MAY HAVE ADDED SOMETHING THAT WE WERE BOTH IN THE 03:43:38

8 SAME PRACTICE GROUP. 03:43:46

9 IN PARAGRAPH FOUR THE FIRST LINE 23, 24 I JUST 03:43:59

10 PUT IN "ONE OF THE CASES." I THINK THIS IS MINE, "ONE 03:44:13

11 OF THE CASES THAT WE WORKED ON." 03:44:17

12 Q. YOU PUT IN "TONY'S FINE FOODS"? 03:44:19

13 A. NO. I SAID "ONE OF THE CASES." 03:44:21

14 Q. OH. I SEE. YOU ADDED "ONE OF THE CASES IN 03:44:23

15 WHICH MR. PYNES AND I REPRESENTED LIBERTY WAS TONY'S 03:44:28

16 FINE FOODS"? 03:44:32

17 A. RIGHT. THE TONY'S FINE FOODS AND THE 03:44:32

18 REFERENCE TO THE CASE AND THE CASE NUMBER AND THE 03:44:34

19 FILING DATE, THAT WAS THERE. I DIDN'T CHANGE THAT. 03:44:36

20 Q. WHO GAVE YOU -- 03:44:39

21 HOW DID YOU COME IN POSSESSION OF EXHIBIT A TO 03:44:41

22 YOUR DECLARATION? 03:44:46

23 A. I THINK THAT WAS ADDED AFTERWARDS. 03:44:51

24 Q. MY QUESTION IS: HOW DID YOU GET IN POSSESSION 03:44:54

25 OF IT? 03:44:57



1 A. PRIOR TO TODAY? 03:44:58

2 Q. HOW DID YOU GET IN POSSESSION OF IT PRIOR 03:45:00

3 TO -- IN ORDER TO MAKE IT AN EXHIBIT TO YOUR 03:45:03

4 DECLARATION? 03:45:06

5 A. I DIDN'T HAVE A COPY OF THE COMPLAINT AT THE 03:45:08

6 TIME I SIGNED MY DECLARATION. 03:45:12

7 Q. I'M SORRY. YOU DIDN'T HAVE A COPY OF WHAT? 03:45:14

8 A. OF EXHIBIT A. 03:45:16

9 Q. SO WHEN YOU SIGNED THE DECLARATION, YOU HADN'T 03:45:19

10 EVEN SEEN THE COMPLAINT THAT YOU ATTACHED AS EXHIBIT A? 03:45:22

11 A. THE COMPLAINT IS A PUBLIC RECORD, SO THE FACT 03:45:27

12 THAT IT WAS -- THE DECLARATION ATTACHED IT -- 03:45:34

13 Q. MY -- 03:45:39

14 A. I DIDN'T HAVE A COPY OF IT AT THE TIME I 03:45:40

15 SIGNED THE DECLARATION. 03:45:42

16 Q. OKAY. SO THAT WAS ADDED AFTER YOU SIGNED THE 03:45:42

17 DECLARATION, AS FAR AS YOU KNOW? 03:45:47

18 A. THAT'S CORRECT. 03:45:48

19 Q. SO YOU DIDN'T EVEN LOOK AT EXHIBIT A WHEN YOU 03:45:48

20 SIGNED THE DECLARATION; CORRECT? 03:45:52

21 A. CORRECT. 03:45:54

22 Q. SO HOW DID YOU KNOW THE COURT NUMBER WAS 03:46:02

23 ACCURATE WHEN YOU SIGNED IT? 03:46:06

24 A. I SAID PREVIOUSLY THAT THAT NUMBER WAS ALREADY 03:46:07

25 IN THE DECLARATION. 03:46:12

1 Q. MY QUESTION -- LISTEN TO MY QUESTION. MY 03:46:13  
2 QUESTION IS: HOW DID YOU KNOW THAT NUMBER WAS ACCURATE 03:46:15  
3 WHEN YOU SIGNED IT IF YOU DIDN'T HAVE THE COMPLAINT? 03:46:17  
4 DID YOU HAVE OTHER TONY'S FINE FOODS RECORDS 03:46:21  
5 TO REFER TO? 03:46:23  
6 A. NO. 03:46:24  
7 Q. SO HOW DID YOU KNOW THE NUMBER WAS CORRECT? 03:46:24  
8 A. I PRESUMED IT WAS CORRECT. 03:46:26  
9 Q. YOU ASSUMED THAT WAS CORRECT. 03:46:28  
10 SO WHEN SHEPPARD, MULLIN, RICHTER & HAMPTON 03:46:30  
11 SENT YOU THE DECLARATION, THEY DID NOT SEND YOU EXHIBIT 03:46:38  
12 A AT ANY POINT IN TIME? 03:46:42  
13 A. THAT'S CORRECT. 03:46:44  
14 Q. OKAY. ALL RIGHT. GO AHEAD. WHAT OTHER 03:46:44  
15 CHANGES DID YOU MAKE? 03:46:48  
16 LET'S GO TO PARAGRAPH FIVE. 03:46:49  
17 A. PARAGRAPH FIVE I JUST CLARIFIED HOW HE -- 03:46:53  
18 MR. PYNES -- SORRY -- BECAME ASSIGNED TO THIS SPECIFIC 03:47:05  
19 PROJECT THAT'S REFERENCED IN THAT PARAGRAPH. 03:47:10  
20 Q. HOW DID YOU CLARIFY IT? 03:47:12  
21 A. THAT I DISCUSSED IT WITH HIS SUPERVISING 03:47:16  
22 ATTORNEY. 03:47:19  
23 Q. HOW DID THAT CLARIFY IT? 03:47:19  
24 WHO WAS THE SUPERVISING ATTORNEY? 03:47:21  
25 A. THAT'S BEEN ASKED AND ANSWERED. 03:47:23

1 IT WAS SUSAN OLSON. 03:47:25

2 Q. SO WHY DIDN'T YOU PUT THE NAME "SUSAN OLSON" 03:47:26

3 IN THERE? 03:47:30

4 A. BECAUSE I DIDN'T FEEL THE NEED. 03:47:30

5 Q. YOU DIDN'T FEEL THE NEED TO IDENTIFY THE NAME 03:47:32

6 OF THE SUPERVISING ATTORNEY? 03:47:35

7 I DIDN'T HEAR YOU. IS THAT WHAT YOU SAID? 03:47:37

8 A. THAT'S WHAT I SAID. 03:47:39

9 Q. AND WHAT ELSE DID YOU CLARIFY IN HERE? 03:47:44

10 A. THAT I DISCUSSED AT LINE -- PAGE TWO, LINES 03:47:58

11 SIX THROUGH EIGHT THAT I DISCUSSED THE ASSIGNMENT WITH 03:48:02

12 MR. PYNES AND THAT -- THAT I RECEIVED A DRAFT PRIVILEGE 03:48:07

13 LOG PREPARED BY MR. PYNES. 03:48:14

14 Q. ANYTHING ELSE? 03:48:16

15 A. NOT THAT I CAN RECALL. NO. 03:48:18

16 Q. OKAY. HOW MUCH TIME DID YOU SPEND TALKING TO 03:48:20

17 SHEPPARD, MULLIN, RICHTER & HAMPTON, TALKING TO 03:48:30

18 MS. HANSEN, MAKING THE CHANGES, AND THE THINGS YOU'VE 03:48:34

19 TESTIFIED TO? 03:48:38

20 A. IS THAT INCLUDING SPEAKING WITH 03:48:39

21 MR. SVESLOSKY'S SECRETARY? 03:48:41

22 Q. YES. 03:48:43

23 A. I'D SAY AROUND TWO HOURS. 03:49:01

24 Q. WHAT DID YOU DISCUSS WITH MS. HANSEN ABOUT THE 03:49:15

25 CHANGES? 03:49:18

1 MS. HANSEN: OBJECTION; ATTORNEY/CLIENT 03:49:19  
2 PRIVILEGE. 03:49:21  
3 INSTRUCT NOT TO ANSWER. 03:49:21  
4 THE DEPONENT: THAT'S PRIVILEGED. 03:49:25  
5 BY MR. ROXBOROUGH: 03:49:26  
6 Q. SHE TOLD YOU WHAT TO CHANGE? 03:49:26  
7 MS. HANSEN: SAME OBJECTION. SAME 03:49:28  
8 INSTRUCTION. 03:49:29  
9 BY MR. ROXBOROUGH: 03:49:29  
10 Q. I'M NOT ASKING WHAT THE CHANGES ARE. 03:49:30  
11 I'M JUST SAYING: DID SHE INSTRUCT YOU TO 03:49:31  
12 CHANGE ANYTHING? 03:49:33  
13 MS. HANSEN: YOU'RE ASKING HER TO REVEAL 03:49:34  
14 COMMUNICATION WITH HER COUNSEL. 03:49:36  
15 INSTRUCT NOT TO ANSWER. 03:49:37  
16 BY MR. ROXBOROUGH: 03:49:39  
17 Q. WELL, WAS SHE REPRESENTING YOU AT THE TIME? 03:49:40  
18 A. YES. I CONSULTED HER. 03:49:42  
19 Q. DID YOU HAVE A RETAINER WITH HER? 03:49:43  
20 A. NOT A FORMAL RETAINER AGREEMENT, NO. 03:49:49  
21 Q. OKAY. WHEN DID YOU RETAIN HER? 03:49:51  
22 A. WHEN I CONSULTED HER. 03:49:58  
23 Q. DIDN'T YOU RETAIN HER AFTER YOU WERE SERVED 03:49:59  
24 THE SUBPOENA IN THIS CASE? 03:50:01  
25 ISN'T THAT EXACTLY WHAT HAPPENED? 03:50:03

1 WOOLEY THE FIRM WAS COVERAGE COUNSEL. 04:09:24

2 WERE YOU COVERAGE COUNSEL? 04:09:26

3 A. YES. 04:09:28

4 Q. OKAY. SO YOU WERE COVERAGE COUNSEL FOR 04:09:29

5 LIBERTY MUTUAL AS WELL; RIGHT? 04:09:32

6 A. YES. 04:09:36

7 Q. EXPLAIN WHAT THAT MEANS, PLEASE, WHAT YOU 04:09:36

8 MEANT BY "COVERAGE COUNSEL." 04:09:39

9 A. I REPRESENTED LIBERTY AND ITS AFFILIATES IN 04:09:42

10 MATTERS RELATING TO COVERAGE UNDER ITS POLICIES. 04:09:47

11 Q. AND TONY'S FINE FOODS, THERE WAS NO ISSUE OF 04:09:51

12 COVERAGE. 04:09:54

13 LIBERTY DENIED COVERAGE; RIGHT? 04:09:54

14 IT WAS A DIFFERENT TYPE OF CASE; RIGHT? 04:09:57

15 A. I BELIEVE SO, YES. 04:09:59

16 Q. IN FACT, IF YOU LOOK AT YOUR DECLARATION -- 04:10:03

17 HAVE YOU SINCE -- 04:10:06

18 WHEN IS THE FIRST TIME YOU SAW THE COMPLAINT 04:10:08

19 FILED BY MR. BAKOS FILED ON OCTOBER 1ST, 2002 THAT'S 04:10:10

20 ATTACHED TO YOUR DECLARATION? 04:10:14

21 A. PROBABLY WHEN I STARTED WORKING ON THE FILE. 04:10:31

22 Q. AND WHEN WAS THAT? 04:10:33

23 A. I DON'T RECALL WHEN EXACTLY I STARTED WORKING 04:10:39

24 ON THE FILE. 04:10:44

25 Q. WHEN IS THE FIRST TIME YOU SAW A COPY OF THIS 04:10:44

1 THAT FILE. 04:30:47

2 Q. ON THAT FILE. IT WAS -- IT WAS IN -- 04:30:50

3 THE FILE HAD BEEN STAYED AT THE TIME YOU 04:30:53

4 CLAIMED HE DID WORK FOR YOU ON THE CASE; CORRECT? 04:30:58

5 MS. HANSEN: OBJECTION; ASSUMES FACTS NOT IN 04:31:01

6 EVIDENCE, LACKS FOUNDATION. 04:31:03

7 MR. SVESLOSKY: YOU MEAN THE CASE; RIGHT? 04:31:05

8 BY MR. ROXBOROUGH: 04:31:06

9 Q. YEAH. THE CASE WAS STAYED AT THE TIME THAT 04:31:07

10 MR. PYNES WAS AT KERN AND WOOLEY ON TONY'S FINE FOODS; 04:31:09

11 CORRECT? 04:31:12

12 YOU'RE FOLDING YOUR ARMS. IS IT COLD OR -- 04:31:12

13 STRIKE THAT. 04:31:14

14 WAS HE AT THE FIRM WHEN THE CASE WAS STAYED ON 04:31:15

15 TONY'S FINE FOODS, OR IS IT YOUR RECOLLECTION THAT THE 04:31:20

16 CASE WAS ACTIVE IN LITIGATION WHEN HE WAS THERE? 04:31:21

17 A. WELL, I DO RECALL THAT THE ACTION HAD BEEN 04:31:24

18 STAYED, BUT IT WAS AT A TIME WHERE WE WERE WORKING ON 04:31:27

19 IT. 04:31:30

20 Q. WORKING ON IT. OKAY. WE'LL GET TO THAT. 04:31:31

21 SO WHEN YOU SAY HE REPRESENTED, HE NEVER TOOK 04:31:34

22 ANY DEPOSITIONS FOR TONY'S FINE FOODS; RIGHT? 04:31:37

23 A. NOT THAT I KNOW OF. 04:31:40

24 Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN 04:31:42

25 PREVIOUSLY MARKED IN SUSAN OLSON AS EXHIBIT 3. 04:31:45

1           BEFORE YOU SIGNED THE DECLARATION, DID YOU ASK  
2 SHEPPARD, MULLIN TO GET YOU A COPY OF THE TONY'S FINE  
3 FOODS CASE?

4           A.    NO.    I DON'T THINK SO.

5           Q.    WHY NOT?

6           A.    BECAUSE IT DIDN'T SEEM NECESSARY.

7           Q.    WELL, WHY DIDN'T IT SEEM NECESSARY TO YOU?

8           A.    BECAUSE THE DECLARATION IS WHAT I RECALLED AT  
9 THE TIME I SIGNED IT.

10          Q.    WHAT WAS YOUR RECOLLECTION BASED ON?

11               NOT THE REVIEW OF ANY DOCUMENTS?

12          A.    MY RECOLLECTION OF THE MATTER HAVING WORKED ON  
13 IT.

14          Q.    OKAY.   TAKE A LOOK AT EXHIBIT 3.   THE PERSON  
15 WHOSE DECLARATION WAS -- STRIKE THAT.

16               THE PERSON WHO -- STRIKE THAT AGAIN.

17               EXHIBIT A IS THE COMPLAINT ATTACHED TO YOUR  
18 DECLARATION, BUT THAT'S NOT ACTUALLY THE NAME OF THE  
19 LAWYER, IS IT?

20               **MS. HANSEN:**   OBJECTION; VAGUE AND AMBIGUOUS.  
21 **BY MR. ROXBOROUGH:**

22          Q.    THAT'S NOT THE LAWYER WHO WAS REPRESENTING THE  
23 PLAINTIFF WHEN YOU HANDLED THE CASE, WAS IT?

24          A.    I DON'T KNOW THAT.

25          Q.    IT WAS MR. CARLSON; RIGHT?



1 LOOK AT THE NEXT PAGE, SUBSTITUTION OF 04:33:42  
2 ATTORNEY, DECEMBER 19TH, 2002, MR. CARLSON. 04:33:45  
3 DOES THAT REFRESH YOUR MEMORY THAT MR. CARLSON 04:33:49  
4 WAS THE LAWYER? 04:33:52  
5 A. NO, IT DOESN'T. 04:33:52  
6 Q. DID YOU EVER HAVE ANY DEALINGS WITH 04:33:53  
7 MR. CARLSON? 04:33:54  
8 A. I MAY HAVE SENT PLAINTIFF'S COUNSEL SOME 04:33:55  
9 CORRESPONDENCE. 04:33:57  
10 Q. BUT YOU DON'T RECALL HIS NAME? 04:33:59  
11 A. NO, I DON'T. 04:34:01  
12 Q. BUT HE'S ON THE CASE FOR THREE YEARS FROM 04:34:03  
13 DECEMBER OF 2002 -- IF YOU LOOK AT EXHIBIT 3 -- TO THE 04:34:05  
14 TIME THE CASE WAS DISMISSED AUGUST OF 2005, ALMOST 04:34:08  
15 THREE YEARS, AND YOU DON'T RECALL HIM; CORRECT? 04:34:13  
16 A. NO, I DON'T RECALL THE NAME OF PLAINTIFF'S 04:34:18  
17 COUNSEL ON THIS CASE. 04:34:21  
18 Q. OKAY. JUST TO REFRESH YOUR MEMORY, DOES THIS 04:34:21  
19 REFRESH YOUR MEMORY THAT AROUND JULY 7, 2003, THERE WAS 04:34:27  
20 AN APPLICATION RE: STAY GRANTED? AT THE TOP OF THE 04:34:32  
21 SECOND PAGE. 04:34:37  
22 A. I DON'T RECALL AN APPLICATION FOR A STAY BEING 04:34:45  
23 GRANTED. 04:34:49  
24 Q. YOU WOULD NEED TO SEE THE FILE TO REFRESH YOUR 04:34:50  
25 MEMORY OR THIS DOCUMENT? 04:34:53

1 BECAUSE I WANT TO BE 100 PERCENT CERTAIN. OKAY? 04:43:13

2 A. THE PRIVILEGE LOGS THAT I PREPARED -- 04:43:15

3 Q. FOR TONY'S FINE FOODS. THAT'S ALL I CARE 04:43:17

4 ABOUT. 04:43:19

5 WHAT PRIVILEGE LOG -- 04:43:20

6 DOES THIS LOOK LIKE THE PRIVILEGE LOG THAT WAS 04:43:21

7 PREPARED IN TONY'S FINE FOODS? 04:43:24

8 A. NO. 04:43:27

9 Q. AND HOW DO YOU KNOW THAT? 04:43:27

10 A. BECAUSE I BELIEVE THERE WERE MORE CATEGORIES. 04:43:29

11 Q. MORE CATEGORIES OF WHAT? 04:43:33

12 A. MORE COLUMNS. 04:43:34

13 Q. MORE COLUMNS FOR WHAT? 04:43:35

14 A. AND MORE GROUNDS FOR PRIVILEGE. 04:43:37

15 Q. HOW DO YOU RECALL THAT? 04:43:40

16 A. BECAUSE THE -- 04:43:49

17 I WORKED ON THE TONY'S FINE FOODS MATTER AND I 04:43:55

18 DIDN'T WORK ON THIS. 04:43:59

19 Q. WHAT FORM DID YOU USE? DIDN'T YOU USE A KERN 04:44:00

20 AND WOOLEY FORM, OR DID YOU CREATE YOUR OWN FORM FOR 04:44:03

21 TONY'S FINE FOODS? 04:44:07

22 A. I DID PRIVILEGE LOGS. THE PRIVILEGE LOGS THAT 04:44:09

23 I WORKED ON HAD MORE CATEGORIES. 04:44:14

24 Q. WHO CREATED THOSE CATEGORIES? 04:44:18

25 A. I DID THROUGH, YOU KNOW, WORKING WITH THE 04:44:26

1 OTHER ATTORNEYS THERE AS WELL. 04:44:30

2 Q. DID YOU CREATE THE PRIVILEGE LOG FOR TONY'S 04:44:33  
3 FINE FOODS -- 04:44:36

4 A. NO. 04:44:36

5 Q. -- THE FORMAT? 04:44:36

6 A. DID I CREATE THE FORMAT? NO. 04:44:39

7 Q. OKAY. DID YOU USE THE FORMAT? 04:44:42

8 A. DID I USE THE FORMAT? NO. 04:44:44

9 I DON'T THINK THAT I PHYSICALLY PERSONALLY 04:44:50  
10 PREPARED THE PRIVILEGE LOG IN TONY'S FINE FOODS. 04:44:57

11 Q. BUT I THOUGHT YOU WORKED ON THE CASE? 04:45:02

12 A. I DID. 04:45:03

13 Q. OKAY. AND YOU SAID IN YOUR DECLARATION ON 04:45:04  
14 PAGE TWO, PARAGRAPH FIVE YOU SAID, QUOTE: "AT A LATER 04:45:07  
15 POINT IN TIME I RECEIVED A DRAFT PRIVILEGE LOG PREPARED 04:45:13  
16 BY MR. PYNES PURSUANT TO THIS ASSIGNMENT." 04:45:17

17 A. THAT'S CORRECT. 04:45:19

18 Q. WHERE IS IT? WHERE IS THE DRAFT? 04:45:20

19 A. PROBABLY AT KERN AND WOOLEY. 04:45:22

20 Q. SO IT NEVER WAS FINALIZED? 04:45:24

21 A. I DON'T KNOW. 04:45:26

22 Q. WHY DID YOU USE THE WORD "DRAFT"? 04:45:27

23 A. BECAUSE THAT'S WHAT HE PREPARED. 04:45:31

24 Q. WELL, WHAT FORM -- 04:45:33

25 DID YOU GIVE HIM A FORM TO FOLLOW? 04:45:34

1 HE NEVER WORKED ON A BAD FAITH CASE INVOLVING 04:45:36  
2 WORKERS' COMP AT KERN AND WOOLEY UNTIL TONY'S FINE 04:45:40  
3 FOODS ACCORDING TO ALL THE TESTIMONY IN THIS CASE, SO 04:45:44  
4 DID YOU GIVE HIM A FORM? 04:45:44

5 A. I DON'T KNOW THAT I GAVE HIM OR PRINTOUT OF A 04:45:45  
6 FORM TO FOLLOW. 04:45:49

7 Q. SO YOU DIDN'T GIVE HIM A FORM? 04:45:50

8 A. I DON'T KNOW. 04:45:52

9 Q. SO HOW DID YOU EXPECT HIM TO DO IT? 04:45:53

10 A. I DISCUSSED WITH HIM -- 04:45:55

11 Q. WHAT DID YOU TELL HIM? 04:45:56

12 A. -- THE ASSIGNMENT. 04:45:57

13 Q. WHAT WAS THE ASSIGNMENT? 04:45:58

14 A. TO REVIEW THE DOCUMENTS. 04:45:59

15 Q. WORKERS' COMPENSATION CLAIM FILES; RIGHT? 04:46:01

16 THAT'S ALL YOU GAVE HIM. 04:46:04

17 THE WORKERS' COMPENSATION CLAIM FILES, IS THAT 04:46:05  
18 ALL YOU ASKED HIM TO REVIEW? 04:46:07

19 MS. HANSEN: CAN SHE ANSWER? 04:46:08

20 BY MR. ROXBOROUGH: 04:46:10

21 Q. YEAH. I THOUGHT YOU DID. 04:46:10

22 A. THE ASSIGNMENT THAT I GAVE HIM WAS TO PREPARE 04:46:11  
23 A PRIVILEGE LOG OF ALL OF THE PRIVILEGE DOCUMENTS 04:46:13  
24 INCLUDING THE CLAIM FILES AND PREPARE A PRIVILEGE LOG 04:46:17  
25 AS TO ATTORNEY/CLIENT PRIVILEGE, WORK PRODUCT, 04:46:23

1 STATE OF CALIFORNIA )  
2 ) SS.  
3 COUNTY OF LOS ANGELES )

4 I, MAGDALENE S. PUENTE, CERTIFIED SHORTHAND  
5 REPORTER, CERTIFICATE NUMBER 8498, FOR THE STATE OF  
6 CALIFORNIA, HEREBY CERTIFY:

7 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME  
8 AT THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME  
9 THE DEPONENT WAS PLACED UNDER OATH BY ME;

10 THE TESTIMONY OF THE DEPONENT AND ALL  
11 OBJECTIONS MADE AT THE TIME OF THE EXAMINATION WERE  
12 RECORDED STENOGRAPHICALLY BY ME AND WERE THEREAFTER  
13 TRANSCRIBED.

14 THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT  
15 TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

16 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL  
17 FOR NOR RELATED TO ANY PARTY TO SAID ACTION NOR IN ANY  
18 WAY INTERESTED IN THE OUTCOME THEREOF.

19 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED  
20 MY NAME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.  
21  
22  
23  
24

25 \_\_\_\_\_  
DEPOSITION OFFICER'S SIGNATURE